

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

LAWRENCE D. FRANKLIN,)	
)	
Movant,)	
)	
v.)	CR420-020
)	CR420-085
UNITED STATES OF)	CR420-087
AMERICA,)	
)	
Respondents.)	

ORDER

Pro se movant Lawrence D. Franklin has filed a document titled “Motion to Dismiss Sentence.” *See* CR420-020, doc. 104; CR420-085, doc. 56; CR420-087, doc. 55. The Government has responded and argues that the Motion should be recharacterized as a 28 U.S.C. § 2255 motion. *See* CR420-020, doc. 106; CR420-085, doc. 58; CR420-087, doc. 57. The Court agrees. The Court, therefore, provides the warning required by *Castro v. United States*, 540 U.S. 375, 382-83 (2003). Franklin must elect how to proceed.

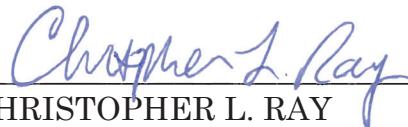
Before the Court can consider the substance of Franklin’s filing, construed as a § 2255 motion, he requires a *Castro* warning. *See Castro*, 540 U.S. at 383 (“the district court must notify the *pro se* litigant that it

intends to recharacterize the pleading [as a § 2255 motion], warn the litigant that this recharacterization means that any subsequent § 2255 motion will be subject to the restrictions on ‘second or successive’ motions, and provide the litigant an opportunity to withdraw the motion or to amend it so that it contains all the § 2255 claims he believes he has.”); *Pena v. United States*, 2016 WL 6609223, at * 1 (S.D. Ga. Sept. 28, 2016).

Pursuant to *Castro*, the Court warns Franklin that it will recharacterize his motion as a § 2255 motion. If he chooses to proceed with it, he will lose his ability to file any successive petition on this same matter without first seeking permission to do so from the Eleventh Circuit. He thus has three choices: (1) have his motion ruled upon as filed, but as a § 2255 motion; (2) amend the motion to include any other claims he may have; or (3) withdraw the motion entirely. He has thirty days to decide what to do. If he does not thereafter affirm, supplement, or replace his original motion or notify this Court of his intent to withdraw it or seek to transfer it, the Court will proceed to rule on it as a § 2255 motion. Accordingly, the Court **DIRECTS** Franklin to make his *Castro* election within thirty days of service of this Order. The Clerk

is **DIRECTED** to furnish him with blank copy of Form AO243 (Motion to Vacate / Set Aside Sentence (Motion Under 28 U.S.C. § 2255), should he wish to amend his motion.

SO ORDERED, this 7th day of March, 2025.



CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA